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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,614	07/09/2003	Nandakishore R. Kushalnagar	42P16771	3330
59796 7590 03/23/2010 INTEL CORPORATION c/o CPA Global P.O. BOX 52050 MINNEAPOLIS, MN 55402				
EXAMINER MUHAMMAD, KHALIF R				
ART UNIT 3685		PAPER NUMBER		
MAIL DATE 03/23/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/616,614

**Applicant(s)**

KUSHALNAGAR ET AL.

**Examiner**

KHALIF MUHAMMAD

**Art Unit**

3685

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 14 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 1-18, 26 and 27 have been examined and rejected.
2. Claims 19-25 have been canceled.

### ***Response to Arguments/Amendments***

3. Applicant's arguments filed 12/14/2009 have been fully considered but they are not persuasive.

#### **Claim 1**

4. It is the applicant's position that the 35 U.S.C. 112 2<sup>nd</sup> paragraph rejection should be withdrawn in response to the amended language. The Examiner respectfully points out that the applicant has failed to positively recite a step of "encrypting" in the claim. The scope of claim 1 is unclear since the claim recites *...responsive to the digital media content being encrypted...* however there is not a prior "encrypting" step. An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed. (*In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989))
5. It is the applicant's position that the prior art does not disclose ...issuing by a local license server, the license to the one or more rendering devices according to the usage rules of the license, wherein the digital media content is capable of being shared

amongst rendering devices... More specifically the applicant feels that Ginter does not teach a local license server. Examiner disagrees and points out that Ginter teaches a server which issues a perc (col 111 lines 30-40; col 155 lines 38-60). Furthermore the Examiner does not agree that such structural limitations not disclosed by the references should be given patentable weight. This argument is applicable to claims drawn to structure and not claims drawn to a method. To be entitled to such weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense and not to amount to the mere claiming of a use of a particular structure, which, in our opinion, is the case here. (*Ex parte Pfeiffer*, 135 USPQ 31 (BdPatApp&Int 1961))

6. The applicant's amended Claim 1 to include *...in one of an encrypted state or a non-encrypted state...* which merely describes the content and is considered nonfunctional descriptive material because the content is not functionally related to the medium in which it is stored. (*In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP 2106.01 II*)

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-18, 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap

between the steps. See MPEP § 2172.01. The omitted steps are: encrypting the digital media content.

9. Claims 2-9, 11-18, 26 and 27 are rejected as each depends from either claims 1 or 10.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 2, 5-11, 14-18, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable by Ginter (US 5892 900).

12. With respect to claims 1, 26 and 27 Ginter discloses a method for managing digital rights comprising:

- retrieving digital media content from a content server over a network connection, in one of an encrypted state or a non-encrypted state, the digital media content to be played on one or more media rendering devices in a local area network (LAN); and (col 256 lines 20-30; column 314 lines 1-23; Fig. 78)
- responsive to the digital media content being encrypted, obtaining a license from a license server to decrypt the digital media content, wherein access to the

license is based on a plurality of usage rules, (column 158 lines 58-65; column 314 lines 1-23; Fig. 78)

- issuing by a local license server the license to the one or more rendering devices according to the usage rules of the license, and wherein the digital media content is capable of being shared amongst the rendering devices; (col 111 lines 30-40; col 155 lines 38-60).

Ginter discloses the method being responsive to a request for the license adhering to the access rules (column 55 lines 35-56). However, receiving the license via a secure out of band transfer is not specifically disclosed by Ginter however Ginter mentions providing reports to outside participants (column 55 lines 35-56) and it would be a predictable result to provide any type of report/information securely to outside participants. (*Ex parte Smith*, 83 USPQ2d 1509 (Bd. Pat. App. & Int. 2007))

13. With respect to claims 2 and 11 Ginter discloses the method of claim 1, wherein obtaining a license from a license server to decrypt the digital media content comprises:

- extracting meta data from the selected digital content, the meta data including a key identification and a license URI, the key identification for identifying the license and the license URI for identifying where the license can be found; (column 55 lines 1-11)

- enabling a local license server within the LAN to obtain the license to play the digital media content; (column 55 lines 1-11)
- and establishing a secure connection to the local license server to request the license; (abstract)
- wherein the local license server determines whether the request for the license adheres to the usage rules, wherein the usage rules are based on the terms of the license. (column 55 lines 1-11)

14. With respect to claim 5 and 14, Ginter discloses the method of claim 1, wherein the LAN comprises a home network and the selected digital media item is to be played on the home network. (column 168 lines 10-25; Fig 35)

15. With respect to claims 6 and 15, Ginter discloses the method of claim 1, wherein
- access rules include at least one of a number of times the selected digital media item is to be played, a number of media rendering devices the selected digital media item may be played on at one time,(column 58 lines 60-67)
  - an expiration of the license; (column 211 lines 1-6)
  - and a length of time a user may play the selected digital media item. (Column 54 lines 33-45)

16. With respect to claim 7 and 16 Ginter discloses the method of claim 1, wherein the access rules include personal owner rules regarding playing the selected digital media item, wherein personal owner rules include at least one of an indication of who can play the digital media content, an indication of when the digital media content can be played, and an indication as to the number of times the digital media content can be played by certain individuals. (Column 54 lines 33-45; col 55 lines 45-60; col 58 lines 60-65)

17. With respect to claim 8 and 17 Ginter discloses the method of claim 1, wherein obtaining the license to decrypt the media content comprises:

- checking a local license server using a key identification acquired from the digital media content to see if the license is available from the local license server; (figs. 17-20; column 120 lines 61-67; column/line 133/10-134/10; column/line 155/38-156/15; column/line 214/15-215/30)
- if the license is available at the local license server, obtaining a location URI for the license to enable retrieval of the license from the local license server; (figs. 17-20; column 120 lines 61-67; column/line 133/10-134/10; column/line 155/38-156/15; column/line 214/15-215/30)



- and if the license is not available at the local license server, enabling the local license server to retrieve the license from a license server in a wide area network using the key identification and a license URI acquired from the digital media content and the location URI indicating where the license can be found on the local license server after the license is retrieved from the license server. (figs. 17-20; column 120 lines 61-67; column/line 133/10-134/10; column/line 155/38-156/15; column/line 214/15-215/30)

18. With respect to claim 9 and 18 Ginter discloses the method of claim 1, wherein prior to retrieving digital media content from the content server, the method further comprising receiving a Universal Resource Identifier (URI) identifying a location for the digital media content the URI is obtained from a home media server, the home media server comprising a plurality of URIs for digital media items used by the LAN. (column 314 lines 1-23; Fig. 78)

19. With respect to claim 10 Ginter discloses an article comprising:

- a storage medium having a plurality of machine accessible instructions, (column 60 lines 56-67; column 61 lines 1-34; fig. 7)
- wherein when the instructions are executed by a processor, (column 60 lines 56-67; column 61 lines 1-34; fig. 7)

- the instructions provide for retrieving the digital media content from a content server over a network connection, the digital media content to be played on one or more media rendering devices in a local area network (LAN); (column 60 lines 56-67; column 61 lines 1-34; fig. 7)
- responsive to the digital media content being encrypted, obtaining a license to decrypt the selected media item, (column 158 lines 58-65; column 314 lines 1-23; Fig. 78)

22. Claims 3,4,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter (US 5892 900) in view of Fransdonk (US 20050066353)

23. With respect to claims 3 and 12, Ginter discloses the method of claim 2, but does not disclose enabling the local license server within the LAN to obtain the license to play the digital content.

Fransdonk discloses wherein enabling the local license server within the LAN to obtain the license to play the selected digital media content comprises:

- receiving the key identification and license URI to access the license; (Figs. 4 and 7; 0073 and 0209)

- establishing a secure connection to a control point to obtain user credentials for acquiring the license; (Figs. 4 and 7; 0073 and 0209)
- retrieving the user credentials; (Figs. 4 and 7; 0073 and 0209)
- establishing a secure connection to the license server providing the license, wherein the license server providing the license is identified using the license URI; (Figs. 4 and 7; 0073 and 0209)
- sending the license server the user credentials and the key identification to obtain the license; (Figs. 4 and 7; 0073 and 0209)
- and acquiring the license using the key identification. (Figs. 4 and 7; 0073 and 0209)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to enable a license server to obtain a license in order to play digital media in order to enforce digital rights management.

24. With respect to claims 4 and 13, Ginter does not disclose the method of claim 3, wherein user credentials comprise a user name, a user address, a credit card number, a date of expiration for a credit card, and a type of license to be requested. On the other hand Ginter does disclose a user name and password. (fig 72A). However credentials can be anything associated with a user to gain access to something. Therefore a user name, a user address, a credit card number, a date of expiration for a

credit card, and a type of license to be requested is all considered nonfunctional descriptive material and Ginter is sufficient in terms of art. (In re Gulack, 217 USPQ 401 (Fed. Cir. 1983), In re Ngai, 70 USPQ2d (Fed. Cir. 2004), In re Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II

Bundle

### ***Conclusion***

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Kikuchi (6088733) teaches viewing live performances over the internet

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHALIF MUHAMMAD whose telephone number is (571)270-5207. The examiner can normally be reached on Monday - Thursday 7 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hewitt Calvin can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KHALIF MUHAMMAD/  
Examiner, Art Unit 3685

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 3685